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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/582,568

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Yang Peng

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

BENGZON, GREG C

ART UNIT

PAPER NUMBER

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/582,568	Applicant(s) PENG ET AL.	
	Examiner GREG BENZON	Art Unit 2444	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This application has been examined. Claims 1-18 are pending.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/10/2009 has been entered.

Priority

This application claims benefits of priority from PCT Application PCT/IB04/52634 filed December 2, 2004 and Foreign Application 200310123353.2 filed December 15, 2003. (CHINA)

The effective date of the claims described in this application is December 15, 2003.

Information Disclosure Statement

The Applicant is respectfully reminded that each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in

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dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in 37 CFR 1.56.

There were no information disclosure statements filed with this application.

Response to Arguments

Applicant's arguments filed 09/10/2009 have been fully considered but they are moot in view of the new grounds for rejection.

The Applicant presents the following argument(s) [*in italics*]:

In addition, Silen fails to disclose the element of "playing the downloaded content combined with the pre-stored content," as Silen discloses the pre-stored content is associated with the operating system variables, which are not relevant to the downloaded content, as previously discussed.

The Examiner respectfully disagrees with the Applicant.

Salmonsens Column 24 Lines 35-40 disclosed wherein *a web-enabled DVD player is able to combine content from a DVD disk with special network-accessed applications*. Thus Salmonsens disclosed *playing the downloaded content combined with the pre-stored content*.

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Sato disclosed (re. Claim 1) reading a pre-stored content providing additional information regarding a content of said downloaded content;(Sato-Paragraph 46-Paragraph 47,*the optical disk contains the disk ID and address information indicating website from which the content is downloaded from*)

Pak disclosed (re. Claim 1) sending a request for downloading the downloaded content wherein the request includes the information of the bandwidth, and receiving the downloaded content according with the detected bandwidth.(Pak-Paragraph 39, *the client requests the content service server to download predetermined contents and transmits the environment information to the contents service server*)

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-18 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1,4,7,10,13,16 recite a limitation for 'reading pre-stored content regarding said downloaded content'.

There is insufficient antecedent basis for this limitation in the claim because there is no prior indication of a downloading process and receiving the said downloaded content before the pre-stored content is read.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salmonsens (US Patent 7209874) further in view of Sato (US Publication 2003/0041123) further in view of Pak (US Publication 2004/0267790) further in view of Silen (US Publication US 2002/0116518).

Salmonsens disclosed (re. Claim 1) method for playing a content, comprising the steps of playing the downloaded content combined with the pre-stored content.
(Salmonsens-Column 24 Lines 35-40,' *a web-enabled DVD player is able to combine*

content from a DVD disk with special network-accessed applications")

While Salmonsens substantially disclosed the claimed invention Salmonsens did not disclose (re. Claim 1) reading a pre-stored content providing additional information regarding a content of said downloaded content; detecting available bandwidth; sending a request for downloading the downloaded content according to the additional information regarding the downloaded content, wherein the request includes the information of the bandwidth, and receiving the downloaded content according with the detected bandwidth.

Salmonsens did not disclose (re. Claim 1) monitoring the available bandwidth to adjust a quality of the combined downloaded content and the pre-stored content.

Sato disclosed (re. Claim 1) reading a pre-stored content providing additional information regarding a content of said downloaded content;(Sato-Paragraph 46-Paragraph 47,*the optical disk contains the disk ID and address information indicating website from which the content is downloaded from*)

Pak disclosed (re. Claim 1) sending a request for downloading the downloaded content wherein the request includes the information of the bandwidth, and receiving the downloaded content according with the detected bandwidth.(Pak-Paragraph 39, *the*

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client requests the content service server to download predetermined contents and transmits the environment information to the contents service server)

Silen disclosed (re. Claim 1) detecting available bandwidth; (Silen-Paragraph 19-23) and downloading the requested content according to the bandwidth. (Silen-Paragraph 26-Paragraph 29)

Silen disclosed (re. Claim 1) monitoring the available bandwidth to adjust a quality of the combined downloaded content and the pre-stored content. (Silen-Paragraph 33, 'query at regular intervals and determine if bandwidth is still acceptable, and if the bandwidth is not acceptable, adjust the presentation accordingly')

Salmonsens, Sato, Pak and Silen are analogous art because they present concepts and practices regarding presentation of media over a network. At the time of the invention it would have been obvious to combine Sato into Salmonsens. The motivation for said combination would have been to so that there is no need for the user to enter the address information manually. (Sato-Paragraph 16)

Similarly at the time of the invention it would have been obvious to combine Pak into Salmonsens-Sato. The motivation for said combination would have been to automatically send the client device environment information and avoid having the user

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make mistakes in manipulating the household appliances to effect a download. (Pak-Paragraph 9)

Similarly at the time of the invention it would have been obvious to combine Silen into Salmonsens-Sato-Pak. The motivation for said combination would have been to enable adjusting a presentation frame size based upon detected bandwidth in order to present the most suitable quality of the download content.

Claims 4,7 (re. method) is rejected on the same basis as Claim 1.

The motivation to combine described in the rejection for Claim 1 applies to Claims 4,7.

Claims 10,13,16 (re. a device) is rejected on the same basis as Claim 1.

The motivation to combine described in the rejection for Claim 1 applies to Claims 10,13,16.

Salmonsens-Sato-Pak-Silen disclosed (re. Claim 2,5,8,11,14,17) wherein the request includes a URL of a website on which the downloaded content is stored. (Silen-Paragraph 21)

The motivation to combine described in the rejection for Claim 1 applies to Claims 2,5,8,11,14,17.

Salmonsens-Sato-Pak-Silen disclosed (re. Claim 3,6,9,12,15,18) wherein the detecting step is arranged for detecting throughput of effective information transmitted within a specific period. (Silen-Paragraph 33)

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The motivation to combine described in the rejection for Claim 1 applies to Claims 3,6,9,12,15,18.

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to the enclosed PTO-892 form.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREG BENGZON whose telephone number is (571)272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571)272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Greg Bengzon/
Examiner, Art Unit 2444